EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

DECISION

Application no. 57328/08
Andrey Alekseyevich FADIN and Klavdiya Aleksandrovna OSHKINA
against Russia

The European Court of Human Rights (Third Section), sitting on 28 June 2016 as a Committee composed of:

Helen Keller, *President,*
Johannes Silvis,
Alena Poláčková, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 19 September 2008,

Having regard to the declaration submitted by the respondent Government on 18 September 2015 requesting the Court to strike the application out of the list of cases and the applicants' reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The first applicant, Mr Andrey Alekseyevich Fadin, is a Russian national, who was born in 1959 lives in Orsk. The second applicant, Ms Klavdiya Aleksandrovna Oshkina, was a Russian national who was born in 1929 and lived in Orsk. The applicants were represented before the Court by Mr S. Kiryukhin, a lawyer practising in Orsk.

The Russian Government ("the Government") were represented by Mr G. Matyushkin, the Representative of the Russian Federation at the European Court of Human Rights.

The applicants complained, in particular, about the length of proceedings in their civil case concerning the use of a land plot and an allegedly unauthorized construction.

The application was communicated to the Government.

By letter dated 18 September 2015 the Government informed the Court that they proposed to make a declaration with a view to resolving the issues raised by the application.

They acknowledged that the length of the proceedings in the applicants' case was in breach of the "reasonable time" requirement set down in Article 6 of the Convention. They undertook to pay the applicants jointly 2,300 euros as just satisfaction. The payment was to cover any pecuniary and non-pecuniary damage as well as costs and expenses, which would be converted into the currency of the respondent State at the rate applicable on the date of payment, and would be free of any taxes that may be applicable. It would be payable within three months from the date of notification of the decision taken by the Court. In the event of failure to pay this sum within the said three-month period, the Government undertook to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment would constitute the final resolution of the case. They further requested the Court to strike out the application.

On 4 May 2016 the Court received a letter from the first applicant informing the Court that he had agreed to the terms of the Government's declaration on his and the second applicant's behalf.

THE LAW

A. *Locus standi* of Mr Fadin

The Court takes note of the second applicant's death on 29 October 2012 and of the wish of the first applicant, her son, to pursue the proceedings in her stead.

On 4 May 2016 the Court received the certificates of inheritance rights confirming that Mr Andrey Alekseyevich Fadin was Ms Klavdiya Aleksandrovna Oshkina's legal successor.

The Court has previously accepted that close relatives of applicants who have died can maintain applications that include complaints concerning various aspects of Article 6 of the Convention (see *Horváthová v. Slovakia*, no. 74456/01, § 26, 17 May 2005, in the context of the length of proceedings).

The Court considers that in the present case the second applicant's son has a legitimate interest in pursuing the application.

B. Complaint about the length of proceedings

The Court finds that following the applicants' express agreement to the terms of the declaration made by the Government the case should be treated as a friendly settlement between the parties (see *Cēsnieks v. Latvia* (dec.), no. 9278/06, § 34, 6 March 2012, and *Bakal and Others v. Turkey* (dec.), no. 8243/08, 5 June 2012).

It therefore takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application.

The Court's present ruling is without prejudice to any decision it might take to restore, pursuant to Article 37 § 2 of the Convention, the present application to the list of cases (see *E.G. and Others v. Poland and 175 other Bug River applications* (dec.), no. 50425/99, § 29, ECHR 2008 (extracts)).

In view of the above, it is appropriate to strike the case out of the list in respect of the complaint about the length of proceedings.

C. Other complaints

The applicants raised additional complaints with reference to various Articles of the Convention and its Protocols. However, in the light of all the material in its possession, and in so far as the matters complained of are within its competence, the Court finds that they do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

It follows that the application in this part is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides that Mr Andrey Alekseyevich Fadin has standing to continue the proceedings in Ms Klavdiya Aleksandrovna Oshkina's stead;

Decides to strike the application in respect of the complaint about the length of proceedings out of its list of cases in accordance with Article 39 of the Convention;

Declares the remainder of the application inadmissible.

Done in English and notified in writing on 21 July 2016.

Fatoş Aracı
Deputy Registrar

Helen Keller
President